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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William Kennard
Chairman
Federal Communications Commission
Office of the Chairman
445 12th Street, SW
Washington, DC 20554

EX PARTE PRESENTATION
Re: *In the Matter of Petition of Southwestern Bell Telephone Company, Pacific Bell and Nevada Bell for Expedited Declaratory Ruling on Interstate IntraLATA Toll Dialing Parity, or in the Alternative, Various Other Relief, NSD File L-98-121; CC Docket No. 96-98*

Dear Chairman Kennard:

For three years the Bell Operating Companies (BOCs) have used litigation as a tool to deny American consumers the benefits of competition. Last month, the Supreme Court ended the BOC litigation campaign by recognizing that this Commission has the authority to implement the Telecommunications Act of 1996 and open telecommunications markets to competition as Congress intended.

One critical market that remains closed for over 30% of American households is the intraLATA toll market. The Commission established rules in August 1996 that, had they not been suspended through the litigation efforts of the BOCs, would have brought the benefits of intraLATA toll competition to all Americans. Now the Commission must ensure that its original decision to open the intraLATA toll market goes forward as promptly as possible, consistent with Congressional intent to offer consumers choice and price competition for intraLATA toll calls.

Consumers Benefit from Toll Competition

While many states have implemented intraLATA dialing parity, or have scheduled implementation in the near future, there are today eleven states that have not acted to allow consumers to choose their 1+ intraLATA carrier.[1] In these states, if a consumer lives in a BOC territory, the consumer defaults to the BOC for intraLATA toll service.

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[1] These are: MD, VA, TX, CA, NV, MO, KS, AR, ND, SD, and ID. MI has not implemented for the Detroit metropolitan area.

MCI WorldCom estimates that, on an annual basis, consumers in these states could be saving over $250 million if they had the opportunity to select a 1+ product such as MCI One. In California alone, we estimate that customers have spent more than $150 million too much on intraLATA toll that they purchase from Pacific Bell, compared to MCI One rates.

Moreover, it is axiomatic that in this $17 billion market, the introduction of competition spurs price reductions. For example, in five U S West states that opened to intraLATA competition on February 8, 1999, U S West reduced its toll rates and began to heavily advertise its intraLATA toll services for the first time. The reduction in U S West's rates has been as follows:

	***USWest IntraLATA Toll Rates**	
State	**Prior to 1+ (2 PIC)**	**After 1+ (2PIC)**
Colorado	$0.25/0.15	$0.22/0.09
Iowa	$0.25/0.10	$0.25/0.09
Montana	$0.28/0.10	$0.25/0.09
Nebraska	$0.27/0.14	$0.26/0.09
Oregon	$0.24/0.10	$0.24/0.09
Washington	$0.24/0.10	$0.24/0.09
* based tariffed Peak/Off Peak Basic Calling Plans		

This pattern is repeated again and again around the country as states have opened their 1+ markets. There can be no doubt that intraLATA competition produces immediate benefits and value for consumers.

Remarkably, SBC continues to deny consumers in most of its states choice in intraLATA toll carriers. Oklahoma is the lonely exception to this sorry state of affairs. There, the state commission insisted that SBC meet its legal obligation and implement toll dialing parity by February 8,1999. The Oklahoma commission permitted a staggered implementation in order to ensure an orderly transition. That transition will culminate on March 25, 1999 when Oklahoma consumers will be able to use the carrier of their choice simply by dialing 1 plus the number. This is a sensible approach to bringing SBC into compliance as quickly as possible. This Commission should join these states and order the BOCs to achieve similar implementation deadlines in the remaining states.

The FCC's Role

This Commission must act to bring intraLATA toll competition to the markets that remain closed. As many states have shown in recent days, the intraLATA toll market can be opened quickly if regulators insist that the BOCs meet their statutory duty to provide dialing parity. It is nonetheless imperative that the Commission address the intraLATA toll dialing parity issue for those states that have not yet set a date for implementing the statutory requirement. The absence of an affirmative Commission statement on this issue has inadvertently contributed to the success of some BOCs in delaying the implementation of toll dialing parity in a given state (e.g., MI). MCI WorldCom recommends that the Commission find:

- There is no need to change or rewrite the existing intraLATA toll dialing parity rules. Nor is there any justification for a lengthy compliance period. States in BellSouth territory have required implementation on the same day on which they approved an implementation plan.

- Section 251(b)(3) of the Telecommunications Act requires BOC implementation of intraLATA toll dialing parity by February 8, 1999. This statutory requirement cannot be waived. The only question concerns how quickly the BOCs comply.

- There are no technical barriers to immediate implementation. The technology to provide 1+ has been available for fifteen years and is resident in BOC networks today.

- There is no need for consumer notification prior to technical implementation. Several states have approved plans that require immediate technical implementation, followed by consumer notification and education.

- The Commission should invite states to approve implementation plans and request submission of information on the details within two weeks.

- The Commission should explicitly declare a plan may be "approved" once the BOC has provided the conversion schedule for each of its end offices. Cost recovery and other details need not be completed for the plan to be "approved" and implemented.

- If it appears that a state will not act, then the Commission should itself approve a plan based on an implementation plan approved by another state commission for the same BOC. For example, the Commission could require SBC to adopt its Oklahoma plan, for any state that does not act to approve a plan. The Commission should complete this within two weeks of determining that a state will not act.

- The Commission should waive enforcement of the implementation plan timing requirements found in 47 C.F.R. section 51.213. Several states have shown that these requirements are unnecessary to bring a BOC into compliance with the dialing parity duties imposed by section 251(b)(3) of the Telecommunications Act.

- The Commission should make clear that only <u>prompt</u> cooperation by a BOC with state regulators or the Commission will ensure that that company face no Commission-imposed liability for its failure to comply with its duty to provide intraLATA dialing parity by February 8, 1999.

The Commission can act now to bring the benefits of competition in the $17 billion toll market, to millions of American residential consumers. The BOCs can implement pre-subscription and begin to process PIC changes within a matter of days. Interexchange carriers will do their part to educate consumers about their new choices. The Commission need not re-write its rules, but must order SBC (and the other BOCs) to come into compliance as quickly as possible with the existing rules. There is no justification for this to take longer than the timeline already established in Oklahoma.

Please include this letter in the record of these proceedings in accordance with Section 1.1206 (a)(2) of the Commission Rules.

Respectfully submitted,

Jonathan B. Sallet
Chief Policy Counsel

CC: Harold Furchtgott-Roth, Commissioner
Susan Ness, Commissioner
Michael Powell, Commissioner
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Attachment: Oklahoma Corporation Commission Order, February 8, 1999